

House Engrossed Senate Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 224

## **SENATE BILL 1080**

AN ACT

AMENDING SECTION 13-1302, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2907.04; RELATING TO CRIMES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1302, Arizona Revised Statutes, is amended to  
3 read:

4 13-1302. Custodial interference; child born out of wedlock;  
5 defenses; classification

6 A. A person commits custodial interference if, knowing or having  
7 reason to know that the person has no legal right to do so, the person does  
8 one of the following:

9 1. Takes, entices or keeps from lawful custody any child, or any  
10 person who is incompetent, and who is entrusted by authority of law to the  
11 custody of another person or institution.

12 2. Before the entry of a court order determining custodial rights,  
13 takes, entices or withholds any child from the other parent denying that  
14 parent access to any child.

15 3. If the person is one of two persons who have joint legal custody of  
16 a child, takes, entices or withholds from physical custody the child from the  
17 other custodian.

18 4. At the expiration of access rights outside this state,  
19 intentionally fails or refuses to return or impedes the return of a child to  
20 the lawful custodian.

21 B. If a child is born out of wedlock, the mother is the legal  
22 custodian of the child for the purposes of this section until paternity is  
23 established and custody or access is determined by a court.

24 C. It is a defense to a prosecution pursuant to subsection A,  
25 paragraph 2 if both of the following apply:

26 1. The defendant has begun the process to obtain an order of  
27 protection or files a petition for custody within a reasonable period of time  
28 and the order of protection or petition states the defendant's belief that  
29 the child was at risk if left with the other parent.

30 2. The defendant is the child's parent and has the right of custody  
31 and the defendant either:

32 (a) Has a good faith and reasonable belief that the taking, enticing or  
33 withholding is necessary to protect the child from immediate danger.

34 (b) Is a victim of domestic violence by the other parent and has a good  
35 faith and reasonable belief that the child will be in immediate danger if the  
36 child is left with the other parent.

37 D. SUBSECTION A, PARAGRAPHS 2 AND 3 DO NOT APPLY TO A PERSON WHO IS  
38 THE CHILD'S PARENT IF BOTH OF THE FOLLOWING APPLY:

39 1. THE PERSON HAS FILED AN EMERGENCY PETITION REGARDING CUSTODIAL  
40 RIGHTS WITH THE SUPERIOR COURT AND HAS RECEIVED A HEARING DATE FROM THE  
41 COURT.

42 2. THE PERSON HAS A GOOD FAITH AND REASONABLE BELIEF THAT THE CHILD  
43 WILL BE IN IMMEDIATE DANGER IF THE CHILD IS LEFT WITH THE OTHER PARENT.

- 1           D. E. A violation of this section is:
- 2           1. A class 3 felony if committed by a person other than the parent or
- 3 agent of the parent or custodian or agent of the custodian.
- 4           2. Notwithstanding paragraph 3 of this subsection, a class 4 felony if
- 5 the child or incompetent person is taken, enticed or kept from lawful custody
- 6 out of this state by the parent or agent of the parent or custodian or the
- 7 agent of the custodian.
- 8           3. A class 6 felony if committed by a parent or agent of the parent or
- 9 custodian or agent of the custodian.
- 10          4. A class 1 misdemeanor if the child or incompetent person is
- 11 voluntarily returned without physical injury ~~prior to~~ BY THE PARENT OR
- 12 DEFENDANT OR THE AGENT OF THE PARENT OR DEFENDANT ~~arrest or the issuance of~~
- 13 ~~an arrest warrant~~ NO LATER THAN FORTY-EIGHT HOURS AFTER THE PARENT OR
- 14 DEFENDANT TAKES, ENTICES OR KEEPS FROM LAWFUL CUSTODY THE CHILD OR
- 15 INCOMPETENT PERSON.
- 16          Sec. 2. Title 13, chapter 29, Arizona Revised Statutes, is amended by
- 17 adding section 13-2907.04, to read:
- 18          13-2907.04. False reporting of vulnerable adult abuse:
- 19                               classification
- 20          A. IT IS UNLAWFUL FOR A PERSON TO INTENTIONALLY MAKE A FALSE REPORT OF
- 21 VULNERABLE ADULT ABUSE OR NEGLECT TO A LAW ENFORCEMENT AGENCY OR TO ANOTHER
- 22 PERSON WHO IS REQUIRED BY LAW TO REPORT THE INFORMATION TO A LAW ENFORCEMENT
- 23 AGENCY.
- 24          B. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.


APPROVED BY THE GOVERNOR APRIL 25, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2011.

Passed the House April 14, 2011,

by the following vote: 55 Ayes,

1 Nays, 4 Not Voting

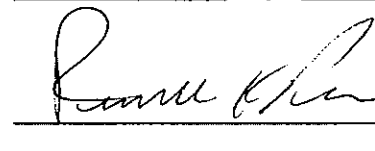
  
Speaker of the House

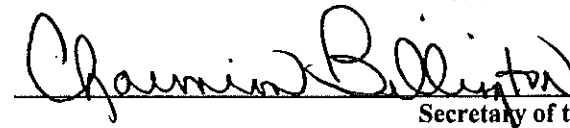
  
Cheryl Laube  
Chief Clerk of the House

Passed the Senate January 27, 2011,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

  
President of the Senate

  
Charmine Ballington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

           day of           , 20  ,

at            o'clock            M.

            
Secretary to the Governor

Approved this            day of

          , 20  ,

at            o'clock            M.

            
Governor of Arizona

S.B. 1080

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this            day of           , 20  ,

at            o'clock            M.

            
Secretary of State

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 18, 2011

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

18 day of April, 2011

at 2:45 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 25<sup>th</sup> day of

April

at 10:06 o'clock A. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 25<sup>th</sup> day of April, 2011

S.B. 1080

at 2:45 o'clock P. M.

[Signature]  
Secretary of State